

STAND. COM. REP. NO.

499

Honolulu, Hawaii

FEB 19 2021

RE: S.B. No. 975  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2021  
State of Hawaii

Sir:

Your Committee on Health, to which was referred S.B. No. 975  
entitled:

"A BILL FOR AN ACT RELATING TO PHARMACY AUDITS,"

begs leave to report as follows:

The purpose and intent of this measure is to establish  
procedures for the auditing of pharmacies.

Your Committee received testimony in support of this measure  
from the National Community Pharmacists Association; Molokai  
Drugs, Inc.; Times Supermarket and Times Pharmacy; Pharmacy Audit  
Assistance Services, LLC; Kamehameha Pharmacy, LLC; and one  
individual. Your Committee received testimony in opposition to  
this measure from Kaiser Permanente Hawaii. Your Committee  
received comments on this measure from the Department of Health;  
Hawaii Employer-Union Health Benefits Trust Fund; and CVS Health,  
Inc.

Your Committee finds that pharmacy audits are a necessary  
practice to identify fraud, abuse, and wasteful spending.  
However, your Committee also finds that pharmacy audits are often  
abused by pharmacy benefit managers as additional revenue sources  
by targeting community pharmacies and recouping money for harmless  
clerical errors where the correct medication was properly  
dispensed, and no financial harm was incurred. In many instances,  
the pharmacy benefit manager not only recoups the money paid to



the pharmacy for the claim in question, but also recoups the money paid for every refill of that claim, even if all other fills were dispensed without error. This measure establishes procedures and rules for pharmacy audits that are necessary to prevent abuse of pharmacy audits.

Your Committee recognizes the testimony of Kaiser Permanente Hawaii, which raised concerns that the measure, as drafted, will have the unintended consequence of promoting healthcare fraud, waste, and abuse, and requests amendments to the measure to prevent abuse and ensure contract pharmacy compliance.

Accordingly, your Committee has amended this measure by:

- (1) Removing the requirement that the auditing entity give the pharmacy being audited at least two weeks written notice prior to conducting an initial audit;
- (2) Removing the requirement that the period covered by an audit not exceed one year from the date the claim was submitted to or adjudicated by an auditing entity;
- (3) Removing the requirement that an audit not take place during the first seven days of the month, unless otherwise consented to by the pharmacy;
- (4) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 975, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 975, S.D. 1, and be referred to your Committee on Commerce and Consumer Protection.



Respectfully submitted on  
behalf of the members of the  
Committee on Health,



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JARRETT KEOHOKALOLE, Chair



The Senate  
Thirty-First Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Health**  
**HTH**

Bill / Resolution No.:* <i>SB 975</i>	Committee Referral: <i>HTH, CPN</i>	Date: <i>2-17-2021</i>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEOHOKALOLE, Jarrett (C)	✓			
BAKER, Rosalyn (VC)	✓			
MORIWAKI, Sharon Y.	✓			
SAN BUENAVENTURA, Joy A.	✓			
FEVELLA, Kurt	✓			
<b>TOTAL</b>	<i>5</i>	<i>-</i>	<i>-</i>	<i>-</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center;"><i>Rosalyn H Baker</i></div>				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes